

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

JAN 03 2012

JULIA C. DUDLEY, CLERK  
BY:   
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UNITED STATES OF AMERICA, ) CASE NO. 7:10CR00003  
)  
)  
vs. ) FINAL ORDER  
)  
)  
KENNETH JOE KENNEDY, ) By: James C. Turk  
) Senior United States District Judge  
Defendant. )


In accordance with the accompanying memorandum opinion, it is hereby

**ADJUDGED AND ORDERED**

As follows:

1. The motion to vacate, set aside or correct the sentence, pursuant to 28 U.S.C. § 2255, (ECF No. 224) is **DISMISSED** without prejudice and stricken from the court's active docket;
2. Based upon the court's finding that the defendant has not made the requisite showing of denial of a substantial right, a certificate of appealability is **DENIED** regarding the court's order dismissing the § 2255 motion; and
3. The defendant's motion for new trial (ECF No. 223) is **DENIED** as without merit.

**ENTER:** This 2<sup>nd</sup> day of January, 2012.

  
Senior United States District Judge